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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,833	12/26/2001	Yuemean Chen	P-9366.00	9335
27581	7590	09/06/2006	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			PITARO, RYAN F	
			ART UNIT	PAPER NUMBER
			2174	

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/033,833

Applicant(s)

CHEN ET AL.

Examiner

Ryan F. Pitaro

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-12 have been examined.

### ***Response to Amendment***

2. This communication is responsive to Amendment filed 6/26/2006.
3. Claims 1-12 are pending in this application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson et al ("Olson", US# 6,366,809) in view of Anderson ("Anderson", US#6,078,871) in further view of Obel et al ("Obel", US 6,748,273) in view of Lesinski et al ("Lesinski", US 5,881,158).

As per independent claim 1, Olson discloses a software system in cooperation with a medical device microprocessor and circuitry to provide dynamic, real time display of capacitor charge/discharge performance and energy status, the software system comprising: a graphical user interface (Column 7 lines 33-35) indicating a plurality of status parameters (Column 7 lines 39-47); means for initiating access to said plurality of status parameters (Figure 6B item 90); and means for manifesting said dynamic, real time display of the status (Figure 5 item 60). However, Olson does not explicitly show a

true graphical user interface, but Anderson teaches a graphical user interface (Figure 3). Therefore it would have been obvious to an artisan at the time of the invention to combine Olson's system with the current teaching of Anderson. Motivation to do so would have been to provide a more detailed way of reporting the battery charge status. Olson-Anderson fails to distinctly point out the medical device being an implantable cardioverter-defibrillator. However, Obel teaches at least one capacitor operatively coupled to an implantable cardioverter-defibrillator (Abstract lines 1-5) and Lesinski provides support that a battery is equivocal to a capacitor as a recharging energy storage device in implantable devices as taught by Lesinski (Column 8 lines 44-53). Therefore it would have been obvious to an artisan at the time of the invention to combine the system of Olson-Anderson and the teaching of Obel. Motivation to do so would have been to provide an implantable medical device, which can be monitored without a docking station regardless of energy source.

As per claim 2, which is dependent on claim 1, the modified Olson discloses a software system including a status bar indicative of current condition of at least one of said plurality of status parameters, and wherein an interior portion of said status bar progressively fills in as a given status parameter proceeds toward a predetermined completion status (Anderson, Figure 3 item 127).

As per claim 3, which is dependent on claim 1, while the modified Olson fails to expressly point out a cancel-operation button operatively couple to said means for initiating access, Anderson does teach a software program, which shows battery status, executed by the CPU (Column 6 lines 34-37). Furthermore, Official Notice is taken that

means for canceling ongoing programs are well known in the art. In most software environments, after a program has been executed the software gives means to terminate the program. This often comes in the form of an X button in the upper right hand corner, or a close button through a drop down menu. Therefore it would have been obvious to an artisan at the time of the invention to combine such a feature with the system of the modified Olson.

As per claim 6, which is dependent on claim 4, modified Olson fails to distinctly point out voltage/energy levels. However, Anderson teaches a system including a charging status display of temporal voltage/energy level during a capacitor charging sequence (Column 5 lines 19-20). Therefore it would have been obvious to an artisan at the time of the invention to combine Olson's system with the current teaching of Anderson. Motivation to do so would have been to provide a more accurate assessment of the time needed to charge the system.

3. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson et al ("Olson", US# 6,366,809) in view of Obel et al ("Obel", US 6,748,273) in view of Lesinski et al ("Lesinski", US 5,881,158).

As per independent claim 4, the Olson discloses a software system implemented in conjunction with a microprocessor circuitry of an implantable medical device, the software system comprising: means for displaying a plurality of capacitor status parameters (Olson, Figure 5 item 60); means for tracking voltage/energy level at

anytime during charging of said at least one capacitor (Olson, Column 5 lines 37-39), means for canceling one of a display couple to the means for tracking and a capacitor charging sequence at anytime during said charging of said at least one capacitor (Figure 6B item 90). However, Olson does not distinctly point out a medical device being an implantable medical device. However, Obel teaches for at least one capacitor operatively coupled to an implantable cardioverter-defibrillator (Obel, Abstract lines 1-5) and Lesinski provides support that a battery is equivocal to a capacitor as a recharging energy storage device in implantable devices as taught by Lesinski (Column 8 lines 44-53). Therefore it would have been obvious to an artisan at the time of the invention to combine the system of Olson and the teaching of Obel. Motivation to do so would have been to provide an implantable medical device, which can be monitored without a docking station regardless of energy source.

As per claim 7, which is dependent on claim 4, Olson-Obel-Lesinski discloses a software system wherein a capacitor charging status of a start, charging and complete condition are displayed based on the respective charging status of the capacitor (Figure 5 items 62 & 64).

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olson et al ("Olson", US# 6,366,809) and Obel et al ("Obel" US 6,748,273) and Lesinski et al ("Lesinski", US 5,881,158) in view of Kaib et al ("Kaib", US# 5,929,601).

As per claim 5, which is dependent on claim 4, Olson-Obel-Lesinski fails to distinctly point out a normal or slow charging mode. However, Kaib teaches a system including a charging-rate circuit operation, wherein said charging-rate circuitry is selectably operable in one of a normal mode and a slow mode (Column 5 lines 53-55). Therefore it would have been obvious to an artisan at the time of the invention to combine the system of Olson-Obel-Lesinski with the teaching of Kaib. Motivation to do so would have been to provide the user the option to minimize charge when time is a factor.

5. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ("Anderson", US#6,078,871) in view of Kaib et al ("Kaib", US# 5,929,601) in further view of Obel et al ("Obel", US# 6,748,273) in view of Lesinski et al ("Lesinski", US 5,881,158).

As per independent claim 8, Anderson discloses a capacitor charging display, displayable on a screen, the display comprising: means for displaying a capacitor charging status (Figure 3); means for displaying a starting voltage/energy (Column 5 lines 19-20); means for displaying a target voltage/energy (Column 5 lines 19-20); means for displaying one of an elapsed time capacitor charging time and a capacitor charging rate (Figure 2); means for canceling a charging operations (*unplug PC*); means for displaying a charging progress metric based on voltage/energy of at least one capacitor (Column 5 lines 19-20). Olson fails to distinctly point out charging circuit

conditions. However, Kaib teaches charging circuit condition (Column 5 lines 53-55). Therefore it would have been obvious to an artisan at the time of the invention to combine the display of Anderson with the teaching of Kaib. Motivation to do so would have been to provide the user the option to minimize charge when time is a factor. Anderson-Kaib fails to distinctly point out the medical device being an implantable cardioverter-defibrillator. However, Obel teaches at least one capacitor operatively coupled to an implantable cardioverter-defibrillator (Abstract lines 1-5) and Lesinski provides support that a battery is equivocal to a capacitor as a recharging energy storage device in implantable devices as taught by Lesinski (Column 8 lines 44-53). Therefore it would have been obvious to an artisan at the time of the invention to combine the system of Anderson-Kaib and the teaching of Obel. Motivation to do so would have been to provide a battery monitoring method and circuit which allow a new way of obtaining reliable information about remaining operation time of the battery of an implantable heart stimulator all the time from the early depletion phase of the battery.

As per claim 10, which is dependent on claim 8, the modified Anderson discloses a display wherein the screen is a PC screen (Anderson, Figure 1 item 115).

6. Claims 9,11,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ("Anderson", US#6,078,871) and Kaib et al ("Kaib", US# 5,929,601) and Obel et al ("Obel", US# 6,748,273) and Lesinski et al ("Lesinski", US 5,881,158) in further view of Rockwell et al ("Rockwell", US# 6,597,948)



As per claim 9, which is dependent on claim 8, the modified Anderson fails to specifically point out a programmer screen. However, Rockwell teaches a programmer screen (Figure 7 item 22). Therefore it would have been obvious to an artisan at the time of the invention to combine the modified display of Anderson with the teaching of Rockwell. Motivation to do so would have been to provide a way of inputting data on the device.

As per claim 11, which is dependent on claim 9, the modified Anderson fails to distinctly point out a PC screen and programmer screen remotely located. However, Rockwell teaches a display wherein the PC screen is remotely located from said programmer screen (Column 14 lines 52-54). Therefore it would have been obvious to an artisan at the time of the invention to combine the modified display of Anderson with the teaching of Rockwell. Motivation to do so would have been to provide a way to analyze the data on a more suitable device made for processing.

As per claim 12, which is dependent on claim 11, the modified Anderson discloses a display wherein PC and programmer are connected in remote data communication (Column 14 lines 52-54).

### ***Response to Arguments***

Applicant's arguments filed 6/26/2006 have been fully considered but they are not persuasive.

The Affidavit filed on June 26 , 2006 and 11/17/2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the prior art of record.

After carefully reviewing the affidavit, the evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date, August 21,2000, of the prior art references. In this particular instance, there are no factual assertions sufficient to show the claimed subject matter. For instance, Applicant's exhibit lacks the claim limitation of claim 1, which states ".....means for initiating access to said plurality of status parameters; and means for manifesting said dynamic, real time display of the status." The supporting exhibits are generic statements of work and progress timelines, which have no indication of what is being developed. Thus there is no connection with the claimed invention, which can be seen from the exhibits. Under 37 CFR 1.131 each exhibit relied upon should be specifically referred to in the affidavit or declaration, in terms of what it is relied upon to show (MPEP 715.07). The exhibits shown do not give a clear explanation of how the exhibits support the claimed invention.

This is not meant to be an exhaustive list of deficiencies in the affidavit and the applicants are encouraged to review section 715 of the MPEP.

Also, the Examiner would like to apologize to the Applicant's representative for the miscommunication. After several missed calls to the Examiner, the Examiner has attempted on numerous occasions to contact Ms. Barry, but has failed since the mailbox

was full. The Examiner does invite the Applicant to call 571-272-4071, if she finds it helpful to speed up prosecution.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan F. Pitaro whose telephone number is 571-272-4071. The examiner can normally be reached on 7:00am - 4:30pm M-Th, and alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 571-272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan Pitaro


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Art Unit 2174  
Patent Examiner

RFP



SY D. LUU  
PRIMARY EXAMINER